

ARTICLE 4: REVIEW PROCEDURES

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§ 400 AMENDMENTS.

400.01 Power to amend. Pursuant to A.R.S. § 9-462.01, the provisions of this Code and the Zoning Map may periodically be amended or repealed.

400.02 Applicability.

A. General. Requests to amend this Code or the Zoning Map may be initiated by the Commission, Council, a real property owner or the owner's agent in the area to be included in the proposed amendment. Applications for amendment shall be made in the office of the Department of Community Development. Requests for Historic District designations may also be initiated by the Historic Preservation Commission.

B. Authorization of property owners to file application. The application for amendment shall be signed by a real property owner in the area included in the application. If an application filed by a real property owner in the area involved includes property not owned by the applicant, before the application will be accepted for processing, the applicant shall file, on a form provided by the Director, a petition in favor of the request signed by the real property owners of at least 75% of the land area to be included in the application. This petition shall bear the property owner's signatures and addresses, the legal description and land area of each property represented on the petition, the total land area represented on the petition, the total land area represented by the petition and the total land area of individual properties included in the application.

C. Historic District Re-Zoning Authorization to File Application.

1. In the case of a Historic District rezoning application, if more than 1 property owner is included in the proposed Historic District, written consent of at least 51% of the property owners of record within the boundaries of the proposed district must be submitted with the application.

2. If the Historic Preservation Commission initiates a Historic District rezoning application, property owner consent is not required.

400.03 Rezoning Application and Review Procedure. No application for a rezoning shall be set for public hearing until a formal review of the application by the Director has taken place. The application submittal and review involves the following steps.

A. Pre-application consultation. A pre-application consultation with the Director is required in order for the Director to explain the rezoning review process and application submittal requirements.

B. Application submittal requirements. Applications for rezoning shall include the following materials, except that submission of items (6)(a), (b), (c), and (d) may be waived by the Director for rezoning applications involving single-family residential uses and Historic District designations, if determined not to be applicable by the Director:

1. Completed application forms;
2. Legal description of the property;
3. Statement or letter of authorization from the property owner (if different from the applicant);
4. Filing fee;
5. Map to include the following:

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- a. Parcel identification;
- b. Existing zoning and uses on-site and for adjacent property;
- c. Intensity and/or density proposals;
- d. Phasing schedule;
- e. Ownership of property owners within 300 feet of the exterior boundaries of the subject property as shown on the last assessment of the property. A list of these property owners shall also be provided on mailing labels and keyed to the map showing the location of the identified properties;

6. Site plan and building elevations showing the following:

- a. Building configuration locations and heights;
- b. Setbacks;
- c. Landscaped areas;
- d. Appropriate calculations, such as, parking lot coverage;
- e. Vehicular access points and modifications to existing street improvement;
- f. Street names, north point, date, right-of-way;

7. Additional information as may be required by the Director;

8. Traffic and parking study, if required by the Director;

9. Statement of conformance to the Sedona Community Plan, Trails and Urban Pathways Plan, and other adopted land use plans.

10. Citizen participation plan and report as set forth in § 408.

C. Investigation and report.

1. Upon receipt of an application for a rezoning, only after a pre-application conference has been

held regarding a rezoning application, the Director shall complete a preliminary review within 2 working days to ensure that all the required materials have been submitted. Incomplete applications will be returned to the applicant and not processed until all materials have been submitted. If all the required materials have been submitted, the application will be considered complete and will be accepted by the Director. Following acceptance of a complete application, the Director shall conduct a formal review and prepare a comprehensive report, which shall be submitted to the appropriate commission and made available to the applicant, media and general public 7 calendar days prior to the commission's public hearing.

2. Upon acceptance of complete application for a Historic District, no demolition or building permits shall be issued by the city until the process as described herein has been completed and City Council has made its decision.

400.04 Amendment Procedure.

A. All applications for amendment to this code and to the Zoning Map, with the exception of a Historic District application and Article 8, Grading and Drainage, shall first be submitted to the Planning and Zoning Commission. The Planning and Zoning Commission shall hold a public hearing concerning the proposed amendment, at which time interested parties and citizens shall have the opportunity to be heard. After this public hearing, unless the applicant requests that the application be withdrawn, the Planning and Zoning Commission shall make a report and recommendation to the Council. This report shall be made by forwarding the application for amendment to the Council with the Planning and Zoning Commission's recommendations. The Council shall then hold a public hearing concerning the proposed amendment and approve, approve with conditions, or deny the proposal.

B. 1. In the case of an application for a Historic District, the application shall first be submitted to the Historic Preservation Commission.

2. The Historic Preservation Commission shall hold a public hearing concerning the proposed rezoning, at which time interested parties and citizens shall have the opportunity to be heard. After the public hearing, unless the applicant requests that the application be withdrawn, the Historic Preservation Commission shall make a report and recommendation to the Planning and Zoning Commission.

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3. The recommendation shall include the following:

a. A map showing the proposed boundaries of the historic district and identifying all structures within the boundaries, including classification as contributing or noncontributing.

b. An explanation of the significance of the proposed district and description of the cultural resources within the proposed boundaries.

c. A set of findings documenting the recommendation of the Historic Preservation Commission.

d. Proposed design guidelines for applying the criteria for review of Certificate of Appropriateness to the nominated historic district.

4. Upon receiving a recommendation from the Historic Preservation Commission, the Planning and Zoning Commission shall then hold a public hearing concerning the proposed Historic District and forward its recommendation, along with the Historic Preservation Commission's recommendation to City Council. City Council shall hold a public hearing concerning the proposed Historic District to approve, approve with conditions or deny the proposal.

C. Amendments to Article 8 of this code shall be considered only by the Council.

400.05 Notice of Public Hearing. Pursuant to A.R.S. § 9-462.04, notice of the date, time and place of a public hearing on a proposed amendment, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given by the city at least 15 days before the hearing in the following manner:

A. Publication at least once in a newspaper of general circulation in the city;

B. In proceedings involving 1 or more of the following proposed changes or related series of changes in the standards governing land uses there shall be notice by publication, in a newspaper of general circulation in the city of a "display ad," covering not less than 1/8 page:

1. A 10% or more increase or decrease in the number of square feet or units that may be developed;

2. A 10% or more increase or reduction in the allowable height of buildings;

3. A increase or reduction in the allowable number of stories of buildings;

4. A 10% or more increase or decrease in setback or open space requirements;

5. An increase or reduction in permitted uses.

C. Notification by first class mail to persons who register their names and addresses with the city as being interested in receiving such notice for proposed changes in the standards governing land use set forth in § 400.05B. above.

D. In proceedings involving rezonings, notice shall also be given as follows:

1. Posting on the affected property so that the following are visible from a distance of 100 feet: the word "zoning," the present zoning district classification, the proposed zoning district classification and the date and time of the hearing. It shall be the responsibility of the applicant to maintain the posting once erected;

2. Notification by first class mail shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be rezoned and all property owners as shown on the last assessment of the property within 300 feet of the property to be rezoned;

3. In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted by the city to the planning agency of the governmental unit abutting such land;

4. The notice of any change in residential district shall contain specific information about whether the change applied for will increase, leave unchanged, or decrease the number of dwelling units permitted in the area in question.

E. In addition to notice by the means set forth above, the city may give notice of the hearing in a specific case in such other manner as it deems necessary or appropriate.

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F. As provided in A.R.S. § 9-462.04.A(7), or any successor statute, the failure of any person or entity to receive notice as set forth in the statute or § 400.05 shall not constitute grounds for any court to invalidate the actions of the city.

G. Persons with specific issues or concerns regarding a proposed rezoning are encouraged to contact the Department of Community Development in writing, by phone or in person prior to the hearing.

400.06 One Year Bar on Refiling.

A. If an application is denied or withdrawn after the Planning and Zoning Commission hearing, the Planning and Zoning Commission may refuse to accept another application for the same or substantially the same amendment on the same property or any part of it within a year of the date the original application was filed on the same property or a portion of it. If the application is continued at the request of the applicant, the 1 year will begin from the date the Planning and Zoning Commission forwards the application to the Council with a recommendation for approval or denial.

B. If an application is withdrawn after the Historic Preservation Commission hearing, the Historic Preservation Commission may refuse to accept another application for the same or substantially the same rezoning on the same property or any part of it within a year of the date the original application was filed on the same property or a portion of it.

400.07 Legal Protest.

A. If a written protest against a proposed amendment is filed with the City Clerk no later than 5 days before the Council hearing, the proposed amendment shall not become effective except by the favorable vote of 3/4 of the Council members. A written protest may be filed by owners of 20% or more of the area of the lots:

1. Included in the proposed amendment;
or
2. Immediately adjacent to the rear of the affected lots and the area extending 150 feet therefrom; or
3. Adjacent to any side of the affected lots and in the area and extending 150 feet therefrom; or

4. Directly opposite from the affected lots in the area extending 150 feet from the opposite street frontage.

B. If any members of the Council are unable to vote on any such amendment because of a conflict of interest, the required number of votes of passage of such amendment shall be 3/4 of the remaining membership of the Council, provided the required number of votes shall not be less than a majority of the full membership of the Council.

400.08 Notice of Council Hearings. Notice of the date, time and place of the hearing and the nature of the amendment requested, including a general description of the area affected, shall be given by the city at least 15 days before the hearing in the following manner:

A. Publication by the city at least once in a newspaper of general circulation in the city;

B. In proceedings involving 1 or more of the following proposed changes or related series of changes in the standards governing land uses there shall be notice by publication, in a newspaper of general circulation in the city of a "display ad," covering not less than 1/8 page:

1. A 10% or more increase or decrease in the number of square feet or units that may be developed;

2. A 10% or more increase or reduction in the allowable height of buildings;

3. An increase or reduction in the allowable number of stories of buildings;

4. A 10% or more increase or decrease in setback or open space requirements;

5. An increase or reduction in permitted uses.

C. Notification by first class mail to persons who register their names and addresses with the city as being interested in receiving such notice for proposed changes in the standards governing land use set forth in § 400.08(B) above.

D. In proceedings involving rezonings, notice shall also be given as follows:

1. Posting on the affected property so that the following are visible from a distance of 100 feet: the word "zoning," the present zoning district classification, the

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proposed zoning district classification and the date and time of the hearing. It shall be the responsibility of the applicant to maintain the posting once erected;

2. Notification by first class mail shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be rezoned and all property owners as shown on the last assessment of the property within 300 feet of the property to be rezoned;

3. In proceedings involving rezoning of land which abuts other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted by the city to the planning agency of the governmental unit abutting such land;

4. The notice of any change in a residential district shall contain specific information about whether the change applied for will increase, leave unchanged, or decrease the number of dwelling units permitted in the area in question.

E. In addition to notice by the means set forth above, the city may give notice of the hearing in a specific case in such other matter as it deems necessary or appropriate.

F. As provided in A.R.S. § 9-462.04.A.7., or any successor statute, the failure of any person or entity to receive notice as set forth in the statute or in § 400.08 shall not constitute grounds for any court to invalidate the actions of the city.

G. Persons with specific issues or concerns regarding a proposed rezoning are encouraged to contact the Department of Community Development in writing, by phone or in person prior to the hearing.

400.09 Reconsideration by Council. An application that has been acted on by the Council may only be reconsidered if within 7 days of the final Council action, a written request for a Motion to Reconsider is submitted to the City Clerk by a Council member.

400.10 Conditional Rezoning Approval.

A. In order to mitigate the negative impact of the applicant's proposed use on the citizens of Sedona and surrounding properties and to assure compatibility with adjacent land uses, the Planning and Zoning Commission may recommend and the Council may approve a rezoning conditioned upon 1 or more of the following:

1. Development in accordance with a specific schedule for the development of specific improvements or uses for which zoning is requested;

2. Development in accordance with a specific site plan or a site plan to be subsequently approved under this Code;

3. Modifications in the otherwise applicable floor area ratio, lot coverage, building height, or density;

4. Public dedication of rights-of-way for streets, alleys, public ways, drainage, public utilities and the installation of improvements that are reasonably required by or directly related to the effect of the rezoning;

5. Other conditions reasonably calculated to mitigate the impact of the proposed development.

B. When a rezoning is subject to such condition(s), the Official Zoning Map shall include a notation that the zoning is conditional and the number of the rezoning application file where the conditions are set forth.

C. Any condition imposed pursuant to this section shall be set forth in the ordinance changing the zoning district classification.

D. Any proposed revisions or changes to an approved conditional rezoning application shall be submitted in the same manner and subject to the same approval process as the original application.

400.11 Reversion of Conditional Rezoning Approval.

A. The Council may approve a conditional rezoning conditioned upon a schedule or set time period for development of specific improvements and/or satisfaction of specific conditions relative to a specific use or uses for which the rezoning is requested. If, at the expiration of this period:

1. The subject property has not been improved for the use for which it was conditionally approved and a building permit has not been issued and construction commenced and diligently pursued toward completion of the site for which the approval was originally granted; or

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2. A Certificate of Occupancy has not been issued for structure(s) which were the subject of the application; or

3. The site has not actually been occupied for a permitted use if no building permit or Certificate of Occupancy is required;

Then the Council may revert the subject property to its former zoning classification through legislative action at a public hearing, unless a request for an extension of time is made by the applicant to the Director at least 63 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. A conditional rezoning subject to reversion may be extended only 1 time for an additional prescribed time period to be recommended by the Planning and Zoning Commission and determined by the Council in a public hearing. Upon the expiration of the specified time period, if no extension has been granted or no application for the same has been submitted, or a granted time extension has expired, then the Planning and Zoning Commission and Council may conduct public hearings to consider the reversion of the subject property to its former zoning classification. Public hearings before the Planning and Zoning Commission and Council shall be noticed in accordance with the provisions of §§ 400.05 and 400.08, respectively. Following the expiration of a granted time extension, the Council may take legislative action at a public hearing to revert subject property to its former zoning classification. Notice of hearing shall be given in accordance with the provisions of § 400.08.

B. In public hearings to consider time extension requests, the applicant shall provide substantial evidence to the Planning and Zoning Commission and Council that:

1. In spite of the good faith efforts of the applicant, circumstances beyond his control have prevented the timely pursuit of the development and completion of the necessary requirements within the original authorized time period; or

2. The applicant has completed substantial property improvements, incurred substantial nonrecoverable monetary expenditures or commitments, or has completed supporting development-related improvements, or retained the services for preparation of supporting data in reliance upon the approval of the request;

3. In either instance, the applicant is in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the city.

C. Extension of previously approved conditional rezoning applications may be subject to the following:

1. Modification of previously required conditions of approval as warranted by interim changes in the area and/or to ensure continued compatibility with any improvements within the context area;

2. Site plan revisions as necessary to comply with ordinance or code amendments that may have taken effect since the time of the original approval.

400.12 Fees. Rezoning and site plan fees are set forth in the City Fee Schedule.
(Am. Ord. 2006-02, passed 1-10-2006)

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§ 401 DEVELOPMENT REVIEW.

401.01 Purpose. The purpose of development review is to provide guidance and direction in the physical improvements of properties within the city through the review of all aspects of a proposed development, including, but not limited to, design review, site planning and the relationship of the development to the surrounding environment and the community. Development review shall promote harmonious, safe, attractive and compatible development and is, therefore, considered to further the public health, safety and general welfare of the citizens of Sedona.

401.02 Applicability.

A. Development review approval by the Commission or Director is required for all development, including signs, landscaping, site layout and use associated with:

1. New building construction;
2. Newly-established uses of land; and
3. Expansions, alterations or modifications of existing structures or sites for commercial, public, semi-public, and multifamily residential uses of property within the city which result in increased occupancy or intensity of use;
4. Repainting of existing buildings subject to the provisions of § 904, Color.

B. The only absolute exceptions to compliance with this section are:

1. Detached single-family residential uses;
2. Accessory buildings and uses associated with detached single-family uses;
3. Interior tenant alterations or improvements which do not affect parking requirements or exterior building appearances.

C. Development review shall be as follows:

1. New buildings, newly-established uses of land, or expansions, alterations or modifications of existing structures or sites which are individually or cumulatively less than 2,000 square feet of gross floor area

of building improvements or, in the case of multi-residential projects, consist of no more than 2 dwelling units, shall be subject to review and approval by the Director relative to the review criteria listed in § 401.06 and compliance with the findings of § 401.08;

2. The Director may require any of the following minor building improvement items to be considered by the Commission at a public hearing on the basis of potential location or visually-related impacts or in conjunction with other aspects of overall site development or improvement:

- a. Signs;
- b. Fences, walls or similar improvements;
- c. Exterior stairways, porches, balconies or similar improvements;
- d. Exterior repair or replacement of existing siding and trim or similar improvements;
- e. Re-roofing;
- f. Exterior painting;
- g. Other similar minor improvements as determined by the Director;

3. New buildings, newly established uses of land, or expansions, alterations or modifications of existing structures or sites which individually or cumulatively equal or exceed 2,000 square feet of gross floor area of building improvements or, in the case of multi-residential projects, consisting of 3 or more dwelling units, shall be subject to review and approval by the Commission, at the public hearing as prescribed in § 401.05, relative to the review criteria listed in § 401.06 and for compliance with the findings of § 401.08.

4. The Director may approve expansions, alterations or modifications to development projects or sites that were subject to development review and approval by the Commission, as follows:

- a. Interior alterations or modifications that increase the overall gross floor area of a building.
- b. Minor exterior alterations or additions to a building that do not exceed 750 square feet,

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provided they are architecturally compatible with the existing building, and are not visible from public or private rights-of-way.

5. Notwithstanding the provisions of subsection 4. above, the Director may require such expansions, alterations or modifications to be considered by the Commission at a public hearing on the basis of potential location or visually-related impacts or in conjunction with other aspects of overall site development or improvements.

401.03 Application Submittal and Review Procedure. Prior to the issuance of a building permit and construction of physical improvements, a real property owner or the agent of a property owner of a development subject to review shall submit to the Director an application for development review. The application submittal and review involves the following steps.

A. Pre-application consultation. After an initial inquiry in which the Director will explain the development review process, submittal requirements and other permitting requirements for the proposed development, a pre-application consultation with the Director shall be held. The purpose of this meeting is for the Director to review the plans and schematic drawings of the proposed development prior to development review submittal as prescribed in § 401.03C. Depending on the size and scale of the development proposal, the Director may recommend or require a preliminary conceptual review hearing with the Commission.

B. Conceptual review hearing. Conceptual review as may be required in § 401.03A. shall be scheduled as a public hearing before the Commission and shall be noticed in accordance with the provisions of § 401.05.

C. Application submittal requirements. A real property owner or the agent of a property owner of a development subject to review shall file a development review application for consideration for approval by the Director or the Commission. This section sets forth the submittal requirements required by this section. The information described is in addition to any other information required by this Code. It is not, however, the intent to require the applicant to duplicate information otherwise required. In many instances, some of the requirements listed below will not apply to a given proposal or piece of property; in those instances, the Director may waive those requirements. The information requested by this section, and as required by other applicable codes and ordinances, may be combined into 1 or more maps or plans, provided that the combined maps or plans adequately depict the required

information. All submittals shall be presented on plan sheets at the size and scale as determined by the Director. If required information has previously been submitted to the city and formed the basis of an approved development project, the same information need not be submitted again. After approval of any development plan, any change to the approved plan shall be resubmitted for a new approval prior to proceeding with the changed portion of the development plan. The application shall contain at a minimum, the following documents to identify the project and to assist in the evaluation of the development's sensitivity to the natural environment:

1. Completed application forms;
2. Legal description of the property;
3. Statement or letter of authorization from the property owner (if different from the applicant);
4. Filing fee;
5. An ownership map of property owners within 300 feet of the exterior boundaries of the subject property as shown on the last assessment of the property. A list of these property owners shall also be provided on mailing labels and keyed to the map showing the location of the identified properties;
6. Cover letter or report describing the overall project and specifically addressing architectural style, its compatibility within its context area, building materials, colors, site planning considerations (including treatment of parking), exterior lighting and landscaping elements to be used in the overall development of the property;
7. A topographic map with a minimum 2-foot contour, or at such other intervals as approved by the Director;
8. A map (at a minimum scale of 1":10' for that portion of the lot within 30 feet of the building or structure) identifying the following, as applicable:
 - a. All trees over 2" DBH, indicating canopy size and species and indicating those trees to be removed;
 - b. All natural topographic features such as water-courses, rock outcrops, native vegetation and trees; and

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c. A map identifying areas of existing man-made scarring;

9. In areas with a slope greater than 30%, a soil and geology report identifying areas of unstable slopes, but only if actual construction will occur in the 30+ % slope areas;

10. A plan identifying all existing structures and proposed structures;

11. A grading plan indicating all areas to be graded, including driveways and streets and a drainage study;

12. Samples of all proposed exterior paints or stains with LRV (Light Reflectance Value) indicated and samples of roof and exterior materials;

13. Drawings showing provisions for mechanical equipment screening;

14. Information relating to the application of alternate standards, if proposed, as discussed in § 905;

15. A development plan showing the proposed configuration, size in acres, number of residential units or nonresidential square footage of proposed buildings and underlying zoning categories for each use;

16. A development phasing map and proposed timing schedule delineating the configuration, size in acres and general sequence of development and dedication;

17. A circulation plan map delineating the location and classification of all major public or private streets and rights-of-way, all required public parking areas, pedestrian ways, trails and bikeways within 500 feet from the property boundary;

18. A context map which clearly portrays any unusual visual features on or within 500 feet of the site. This presentation may include such materials, at the applicant's option, as slides, photographs, cross sections, maps, computer simulations, perspectives or models;

19. Graphic materials drawn to scale, illustrating all existing and proposed new site improvements and existing site conditions (topography), landscaping, signage and building elevations accurately depicting the appearances of the property and all site improvements upon completion. These materials will include a Context Plan

which includes an existing conditions analysis and a Conceptual Site Plan, as described in Article 2, Definitions. Required submittal materials are also identified in the adopted design standards of Article 10. The number of copies required will be determined by the Director. This item may be waived by the Director if determined not to be applicable to the request;

20. Master Sign Plan, see Article 11, Sign Regulations, § 1104 Administration;

21. Citizen Participation Plan and Report as set forth in § 408;

22. Any other materials and data as may be required by the Director, such as a slope analysis, to ensure that the purpose of this section is satisfied.

D. Investigation and report. Upon receipt of an application for development review, the Director shall complete a preliminary review within 2 working days to ensure that all the required materials have been submitted. Incomplete applications shall be returned to the applicant and not processed until all required materials have been submitted. If all the required materials have been submitted, the application will be considered complete and will be accepted by the Director. A preliminary review shall be performed only after a pre-application conference has been held regarding the development review application. Following acceptance of an application, the Director shall review the submitted site plan and supporting materials and investigate the proposed site improvements, both on-site and by consultation with applicable city departments and participating reviewing agencies with jurisdiction over public health and safety.

1. Applications subject to review and approval by the Director shall be addressed by a written report, which includes:

a. The location and nature of the proposed improvements;

b. The comments and concerns of reviewing agencies;

c. The revisions to the project proposed by the applicant as necessary to address the reviewing agencies comments and established review criteria;

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d. Recommendations on the approval, conditional approval, or denial of the request based on the necessary findings set forth in § 401.08;

e. Conditions of development review approval that may be necessary to address the concerns.

2. On applications subject to review and approval at a public hearing before the Commission, the Department shall prepare a comprehensive report, which shall be submitted to the Commission and made available to the applicant, media and general public 7 days before the hearing.

401.04 Fees. A development review application or appeal shall be accompanied by a fee as listed in the City Fee Schedule.

401.05 Notice of Public Hearing. Notice of the date, time and place of a public hearing of the request for consideration of development review approval, including a general explanation of the matter to be considered and a general description of the area affected shall be given by the city at least 15 days before the hearing in the following manner:

A. Publication at least once in a newspaper of general circulation in the city;

B. Posting on the affected property so that the words "Development Review" and the date and time of the hearing are visible from a distance of 100 feet. It shall be the responsibility of the applicant to maintain the posting once erected.

C. Notification by first class mail shall be sent to each real property owner as shown on the last assessment of the property within 300 feet of the subject property.

D. As provided in A.R.S. § 9-462.04A.(7), or any successor statute, the failure of any person or entity to receive notice as set forth in the statute or in § 401.05 shall not constitute grounds for any court to invalidate the actions of the city.

E. Persons with specific issues or concerns regarding a proposed application are encouraged to contact the Department of Community Development in writing, by phone, or in person prior to the hearing.

401.06 Criteria. In considering any application for development review approval the development review process shall be guided by the following criteria:

A. The degree to which all of the applicable provisions of this Code and all other ordinances have been complied with;

B. The degree to which the proposed development of buildings, uses, or structures conforms to the design standards set forth in Article 10;

C. The degree to which the proposed development integrates the proposed built environment into the natural environment with minimal disturbance to view corridors, existing native vegetation and/or established landscaping, the natural topography of the site, natural drainageways, known wildlife habitats, rock outcrops, and other natural features;

D. The degree to which the proposed development integrates into, and is compatible with, the built form of surrounding properties and existing developments with regard to building height and character, landscaping, signage, building materials, historical structures or features, landscaping, and pedestrian and vehicular circulation;

E. That the proposed use is in general conformance with applicable goals, objectives and recommendations described in the Sedona Community Plan and adopted specific plans;

F. The degree to which proposed vehicular ingress, egress, internal traffic circulation, off-street parking facilities, loading and service areas and solid waste collection are designed to promote public safety and convenience;

G. The degree to which pedestrian circulation is facilitated both on and off-site through interconnected passages, pathways and plazas, and is designed to promote public safety and convenience;

H. The degree to which the proposed development addresses concerns cited by participating reviewing agencies with jurisdiction in the areas of public health and safety.

401.07 Planning and Zoning Commission Public Hearing and Decision. The Commission shall hold at least 1 public hearing on each development review application subject to its approval. At the public hearing, the Commission shall review the proposal with consideration given to the criteria in § 401.06. Approval, conditional approval or denial of a development review application shall be based on the findings set forth in § 401.08.

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401.08 Findings. When reviewing a development review application:

A. The Director or the Commission, as applicable, may approve, with or without conditions, a development or portion of it if the Director or Commission finds that all provisions of ordinances, development policies and standards of the city have been complied with;

B. The Director or the Commission, as applicable, may deny the entire development or portion of it if the Director or Commission finds that any provisions of ordinances, development policies and standards of the city have not been complied with.

401.09 Effective Date of Development Review Decision. A decision of the Director or of the Commission on a development review application shall be effective 15 days after the decision unless an appeal is filed in accordance with § 401.10.

401.10 Appeals.

A. A decision of the Director on a development review application may be appealed to the Commission.

B. A decision of the Commission on a development review application may be appealed to the Council.

C. The applicant or any member of the general public may file a written appeal, clearly stating the reasons for such appeal, within 15 days of the final action of the Director or the Commission regarding the development review application.

401.11 Action by Officials Upon Appeal. Following the filing of an appeal of a decision of the Director or of the Commission on a development review application, the body with which the appeal is filed shall hold a public hearing on the appeal and the merits of the development review application to approve, conditionally approve, or deny the development as proposed. As part of any conditional approval, the reviewing body may require any modifications necessary to achieve compliance with the requirements of this Code. Notice of hearing shall be conducted according to the provisions of § 401.05.

401.12 Revocation of Development Review Approval.

A. Development review approval may be granted subject to a schedule of development or set time

period for development of specific improvements and/or a specific use or uses for which the development review is requested. If, at the expiration of this period or, if a specific time period is not specified, after 1 year following the date upon which the final approval became effective:

1. The subject property has not been improved for the development for which it was approved and a building permit has not been issued and construction commenced and diligently pursued toward completion of the site for which the approval was originally granted; or

2. A certificate of occupancy has not been issued for structure(s) which were the subject of the application; or

3. The site has not actually been occupied for a permitted use if no building permit or Certificate of Occupancy is required;

Then the development review approval shall be considered subject to revocation, unless a request for an extension of time is made by the applicant to the Director at least 63 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. A development review approval subject to revocation may be extended only 1 time for an additional prescribed time period to be determined by the Director or Commission (or Commission or Council if the decision of the Director or Commission, respectively, is appealed), as applicable. Upon the expiration of the specified time period, if no extension has been granted or no application for the same has been submitted, or a granted time extension has expired, then the Director, Commission or Council, as applicable, may consider revoking the development review approval. Consideration of time extensions and/or revocations by the Commission and Council shall be at a public hearing and shall be noticed in accordance with the provisions of § 401.05.

B. In the consideration of time extension requests, the development review approval is considered subject to revocation unless the applicant provides substantial evidence that:

1. In spite of the good faith efforts of the applicant, circumstances beyond his control have prevented the timely pursuit of the development and completion of the necessary requirements within the original authorized time period; or

2. The applicant has completed substantial property improvements, incurred substantial nonrecoverable

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monetary expenditures or commitments, or has completed supporting development improvements, or retained the services for preparation of supporting data in reliance upon the approval of the request;

3. In either instance, the applicant is, in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the city.

C. Extension of previously approved development review applications may be subject to the following:

1. Modification of previously required conditions of approval as warranted by interim changes in the area, and/or to ensure continued compatibility with any improvements within the context area;

2. Project revisions as necessary to comply with ordinance or code amendments that may have taken effect since the time of the original approval.

401.13 Implementation Procedures.

A. Prior to the issuance of a building permit the Director shall determine that the submitted plans for the building permit substantially conform with those approved by the Director, the Commission or Council and that the time period for approvals has not expired. An approval stamp, the signature of the Director and the date of the signature shall indicate that the plans are in conformity.

B. Any conditions prescribed by the Director, the Commission or Council shall be considered an integral part of the construction plans. The conditions of approval shall be noted on all plans that may be required by applicable city departments.

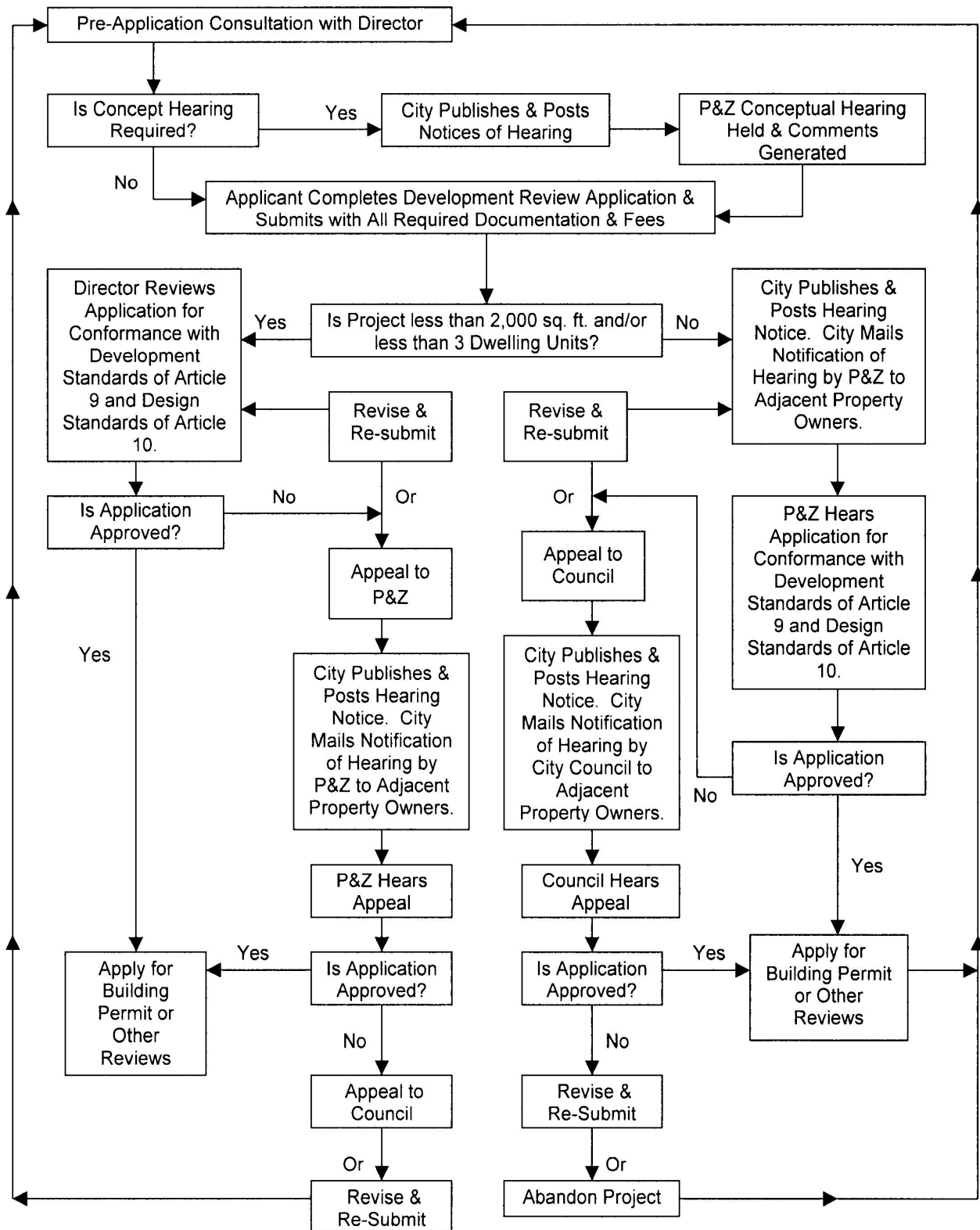
C. Upon completion of the development, the Director shall conduct a site investigation coordinated with all applicable reviewing agencies involved with the development review proposal to assure compliance with all applicable conditions of approval prior to the issuance of a Certificate of Occupancy.

D. Any building, structure or sign which has been constructed or installed without the approval of the Director, the Commission or Council, as applicable, may be ordered removed at the applicant's expense. Modifications, alterations or changes to approved plans shall not be authorized without specific review and approval. Proposed revisions shall be submitted for consideration in the same manner as a new application.

E. Noncompliance with approved plans and conditions shall be grounds for the Director to either stop the work on the project or to deny a Certificate of Occupancy;

F. Any building, structure, plant, material or sign which has been approved by the Director, Commission or Council and has been constructed or installed in accordance with approved plans shall be maintained in accordance with said approvals by the owner or person in possession of the property on which the building, structure or sign is located.

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§ 402 CONDITIONAL USES.

402.01 Purpose and Applicability.

A. In order to give these use regulations the flexibility necessary to achieve the objectives of this article, conditional uses are permitted in certain zoning districts subject to the granting of a conditional use permit. The uses permitted subject to conditional use permits are set forth in the descriptions of uses permitted in each zoning district in Article 6. Conditional uses are generally characterized by any of the following:

1. Infrequency of use;
2. High degree of traffic generation;
3. Requirement of large land area.

B. Approval of a new conditional use permit is also required for modification or expansion of an existing conditional use.

402.02 Application Submittal and Review Procedure. A request for conditional use permit approval shall be initiated by a real property owner or agent of a property owner of the area subject to the request. No application for a conditional use permit shall be set for public hearing until a formal review of the application by the Director has taken place. In the event that development review approval is required by the Commission and/or an application for a rezoning is to be considered for the same property, the applications shall be coordinated to minimize the duplication of information to be submitted and will be processed together. The application submittal and review involves the following steps:

A. Pre-application consultation. A pre-application consultation with the Director is required in order to explain the conditional use permit application submittal requirement.

B. Application submittal requirements. This section sets forth the submittal requirements required by this section. The information described is in addition to any other information required by this Code. It is not, however, the intent to require the applicant to duplicate information otherwise required. In many instances, some of the requirements listed below will not apply to a given proposal or piece of property; in those instances, the Director may waive those requirements. The information requested by this section, and as required by other applicable codes and ordinances, may be combined into 1 or more maps or plans,

provided that the combined maps or plans adequately depict the required information. All submittals shall be presented on plan sheets at the size and scale as determined by the Director. If required information has previously been submitted to the city and formed the basis of an approved development project, the same information need not be submitted again. After approval of any development plan, any change to the approved plan shall be resubmitted for a new approval prior to proceeding with the changed portion of the development plan. An application for a conditional use permit shall include the following documents to identify the project and to assist in the evaluation of the development's sensitivity to the natural environment:

1. Completed application forms;
2. Legal description of the property;
3. Statement or letter of authorization from the property owner (if different from the applicant);
4. Filing fee;
5. An ownership map of property owners within 300 feet of the exterior boundaries of the subject property as shown on the last assessment of the property. A list of these property owners shall also be provided on mailing labels and keyed to the map showing the location of the identified properties;
6. Cover letter or report describing the overall project and specifically addressing architectural style, its compatibility within its context area, building materials, colors, site planning considerations (including treatment of parking), exterior lighting and landscaping elements to be used in the overall development of the property;
7. A topographic map with a minimum 2-foot contour, or at such other intervals as approved by the Director;
8. A map (at a minimum scale of 1":10' for that portion of the lot within 30 feet of the building or structure) identifying the following, as applicable:
 - a. All trees over 2" DBH, indicating canopy size and species, and indicating those trees to be removed;
 - b. All natural topographic features such as watercourses, rock outcrops, native vegetation and trees; and

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c. A map identifying areas of existing man-made scarring;

9. In areas with a slope greater than 30%, a soil and geology report identifying areas of unstable slopes, but only if actual construction will occur in the 30+ % slope areas;

10. A plan identifying all existing structures and proposed structures;

11. A grading plan indicating all areas to be graded, including driveways and streets, and a drainage study;

12. Samples of all proposed exterior paints or stains with LRV (Light Reflectance Value) indicated and samples of roof and exterior materials;

13. Drawings showing provisions for mechanical equipment screening;

14. Information relating to the application of alternate standards, if proposed, as discussed in § 905;

15. A development plan showing the proposed configuration, size in acres, number of residential units or nonresidential square footage of proposed buildings and underlying zoning categories for each use;

16. A development phasing map and proposed timing schedule delineating the configuration, size in acres and general sequence of development and dedication;

17. A circulation plan map delineating the location and classification of all major public or private streets and rights-of-way, all required public parking areas, pedestrian ways, trails and bikeways within 500 feet from the property boundary;

18. A context map which clearly portrays any unusual visual features on or within 500 feet of the site. This presentation may include such materials, at the applicant's option, as slides, photographs, cross sections, maps, computer simulations, perspectives or models;

19. Graphic materials drawn to scale, illustrating all existing and proposed new site improvements and existing site conditions (topography), landscaping, signage and building elevations accurately depicting the appearances of the property and all site improvements upon completion. These materials will include a Context Plan

which includes an existing conditions analysis and a Conceptual Site Plan, as described in Article 2, Definitions. Required submittal materials are also identified in the adopted design standards of Article 10. The number of copies required will be determined by the Director. This item may be waived by the Director if determined not to be applicable to the request;

20. Citizen Participation Plan and report as set forth in § 408;

21. Any other materials and data as may be required by the Director, such as a slope analysis, to ensure that the purpose of this section is satisfied.

C. Investigation and report. Upon receipt of an application for a conditional use permit, the Director shall complete a preliminary review within 2 working days to ensure that all the required materials have been submitted. Incomplete applications shall be returned to the applicant and not processed until all required materials have been submitted. If all the required materials have been submitted, the application will be considered complete and will be accepted by the Director. A preliminary review shall be performed only after a pre-application conference as been held regarding a specific application. Following acceptance of a complete application, the Director shall conduct a formal review and prepare a report which shall be submitted to the Commission and made available to the applicant, media, and general public 7 calendar days prior to the public hearing.

402.03 Fees. The application shall be accompanied by a fee as listed in the City Fee Schedule.

402.04 Commission Hearing. The Commission shall hold at least 1 public hearing on each application for a conditional use permit. If development review approval is required by the Commission and/or an application for a zoning map amendment is to be considered for the same property, the Commission may combine the hearings. At the public hearing, the Commission shall review the application and materials submitted and shall receive pertinent evidence concerning the proposed use and the proposed conditions under which it would be operated or maintained, particularly with respect to the findings set forth in § 402.06. Notice of the date, time and place of a public hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given by the city at least 15 days before the hearing in the following manner:

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A. Publication at least once in a newspaper of general circulation in the City of Sedona;

B. In proceedings involving 1 or more of the following proposed changes or related series of changes in the standards governing land uses there shall be notice by publication, in a newspaper of general circulation in the city of a “display ad,” covering not less than 1/8 page:

1. A 10% or more increase or decrease in the number of square feet or units that may be developed;

2. A 10% or more increase or reduction in the allowable height of buildings;

3. An increase or reduction in the allowable number of stories of buildings;

4. A 10% or more increase or decrease in setback or open space requirements;

5. An increase or reduction in permitted uses.

C. Posting on the affected property so that the words: “Conditional Use Permit” and the date and time of the hearing are visible from a distance of 100 feet. It shall be the responsibility of the applicant to maintain the posting once erected.

D. Notification by first class mail shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be considered for a conditional use permit and all property owners as shown on the last assessment of the property within 300 feet of the subject property.

E. In proceedings involving conditional use permits, which abut other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted by the city to the planning agency of the governmental unit abutting such land.

F. The notice of any change in a residential district shall contain specific information about whether the change applied for will increase, leave unchanged, or decrease the number of dwelling units permitted in the area in question.

G. As provided in A.R.S. § 9-462.04.A (7), or any successor statute, the failure of any person or entity to receive notice as set forth in the statute or in § 402.04 shall

not constitute grounds for any court to invalidate the actions of the city.

H. Persons with specific issues or concerns regarding the proposed conditional use permit application are encouraged to contact the Department of Community Development in person, by phone or in writing prior to the hearing.

402.05 Action of the Commission.

A. Based upon the findings prescribed in § 402.06, and with consideration given to the applicable goals, objectives and recommendations described in the Sedona Community Plan and specific plans, the Commission may grant a conditional use permit as applied for or in a modified form, or the application may be denied. Further, a conditional use permit may be granted for a limited time period or may be granted subject to such conditions as the Commission may prescribe, effective upon the satisfaction of certain conditions. A conditional use permit may also be revoked subject to the provisions of § 402.10.

B. Conditions may include, but shall not be limited to, drainage, sewerage, water and other utility requirements, requiring special yards, open spaces, buffers, fences and walls; requiring installation and maintenance of landscaping; requiring street dedications and improvements; regulation of points of vehicular ingress and egress; regulation of on and off-site traffic circulation; regulation of solid waste collection facilities; regulation of signs; regulation of hours and methods of operation; control of potential nuisances; prescribing standards for maintenance of buildings and grounds; prescribing development schedules and development standards; and other conditions the Commission may deem necessary to address concerns of reviewing agencies, satisfy applicable review criteria and preserve the public health, safety and welfare.

C. A conditional use permit may waive or modify regulations generally prescribed by this Code for fences, walls, hedges, screening and landscaping; site area, width and depth; front, rear and side yards; coverage; height of structures; distances between structures; usable open space; signs; off-street parking facilities or frontage on a public street.

402.06 Findings. The following findings shall be made before granting a conditional use permit:

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A. That the proposed location of the conditional use is in accordance with the objectives of this Code and the purpose of the zoning district in which the site is located;

B. That the granting of the conditional use permit will not be materially detrimental to the public health, safety or welfare. The factors to be considered in evaluating this application shall include:

1. Property damage or nuisance resulting from noise, smoke, odor, dust, vibration or illumination;
2. Any hazard to persons and property from possible explosion, contamination, fire or flood;
3. Any impact on surrounding area resulting from unusual volume or character of traffic.

C. That the characteristics of the use as proposed and as may be conditioned are reasonably compatible with the types of use permitted in the surrounding area.

D. That the proposed use, as it may be conditioned, will comply with the applicable provisions of this Code, and other ordinances.

E. That the proposed expansion or change of a nonconforming use (if applicable) is no more deleterious to other properties in the surrounding area than the existing use.

402.07 Effective Date of the Conditional Use Permit. The decision of the Commission shall be final 15 days from the date of the decision unless, prior to the expiration of that period, an appeal has been filed with the Director.

402.08 Appeal to the Council. A decision of the Commission may be appealed to the Council within 15 days of the Commission's decision, by the applicant or any member of the general public. The Council shall hold a public hearing on a conditional use permit if an appeal has been filed within the 15-day appeal period. The decision of the Council shall be final. Based upon the findings prescribed in § 402.06, and with consideration given to the applicable goals, objectives and recommendations described in the Sedona Community Plan and specific plans, the Council may grant a conditional use permit as applied for or in a modified form, or the application may be denied. Further, a conditional use permit may be granted for a limited time period or may be granted subject to such conditions as the Council may prescribe, effective upon the

satisfaction of certain conditions. A conditional use permit may also be revoked subject to the provisions of § 402.10.

402.09 Notice of Council Hearing. In the event that a public hearing before the Council is to be held, notice of the date, time and place of the hearing and the nature of the request, including a general description of the area affected, shall be given by the city at least 15 days before the hearing in the following manner:

A. Publication at least once in a newspaper of general circulation in the City of Sedona;

B. In proceedings involving 1 or more of the following proposed changes or related series of changes in the standards governing land uses there shall be notice by publication, in a newspaper of general circulation in the city of a "display ad", covering not less than 1/8 page:

1. A 10% or more increase or decrease in the number of square feet or units that may be developed;
2. A 10% or more increase or reduction in the allowable height of buildings;
3. An increase or reduction in the allowable number of stories of buildings;
4. A 10% or more increase or decrease in setback or open space requirements;
5. An increase or reduction in permitted uses.

C. Posting on the affected property so that the words "Conditional Use Permit" and the date and time of the hearing are visible from a distance of 100 feet. It shall be the responsibility of the applicant to maintain the posting once erected.

D. Notification by first class mail shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be considered for a conditional use permit and all property owners as shown on the last assessment of the property within 300 feet of the property to be considered for a conditional use permit.

E. In proceedings involving conditional use permits which abut other municipalities or unincorporated areas of the county or a combination thereof, copies of the notice of public hearing shall be transmitted by the city to the planning agency of the governmental unit abutting such land.

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F. The notice of any change in a residential district shall contain specific information about whether the change applied for will increase, leave unchanged, or decrease the number of dwelling units permitted in the area in question.

G. As provided in A.R.S. § 9-462.04.A (7), or any successor statute, the failure of any person or entity to receive notice as set forth in the statute or in § 402.09 shall not constitute grounds for any court to invalidate the actions of the city.

H. Persons with specific issues or concerns regarding the proposed conditional use permit application are encouraged to contact the Department of Community Development in person, by phone or in writing prior to the hearing.

402.10 Revocation of Conditional Use Permit.

A. A conditional use permit may be approved subject to a schedule of development or set time period for development of specific improvements and/or a specific use or uses for which the conditional use is requested. If, at the expiration of this period or, if a specific time period is not specified, after 1 year following the date upon which the final approval became effective:

1. The subject property has not been improved for the use for which it was approved and a building permit has not been issued and construction commenced and diligently pursued toward completion on the site for which the approval was originally granted; or

2. A Certificate of Occupancy has not been issued for structure(s) which were the subject of the application; or

3. The site has not actually been occupied for a permitted use if no building permit or Certificate of Occupancy is required;

Then the conditional use permit shall be considered subject to revocation, unless a request for an extension of time is made by the applicant to the Director at least 63 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. A conditional use permit subject to revocation may be extended only 1 time for an additional prescribed time period to be determined in a public hearing by the Commission (or Council if the Commission's decision is appealed). Upon the expiration of the specified time period, if no extension has been granted or no application

for the same has been submitted, or a granted time extension has expired, then the Commission or Council, as applicable, may consider revoking the conditional use permit at a public hearing. Public hearings by the Commission and Council shall be noticed in accordance with the provisions of §§ 402.04 and 402.09, respectively.

B. In public hearings before the Commission (and/or Council), relative to § 402.10A. above, the conditional use permit is considered subject to revocation unless the applicant provides substantial evidence that:

1. In spite of the good faith efforts of the applicant, circumstances beyond his control have prevented the timely pursuit of the development and completion of the necessary requirements within the original authorized time period; or

2. The applicant has completed substantial property improvements; incurred substantial nonrecoverable monetary expenditures or commitments; or has completed supporting development-related improvements or retained the services for preparation of supporting data in reliance upon the approval of the request;

3. In either instance, the applicant is, in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the city.

C. Extension of previously approved conditional use permit applications may be subject to the following:

1. Modification of previously required conditions of approval as warranted by interim changes in the area and/or to ensure continued compatibility with any improvements within the context area;

2. Site plan revisions as necessary to comply with ordinance or code amendments that may have taken effect since the time of the original approval.

D. If the use for which the conditional use permit was approved ceases for a period of 2 years, the Commission (or Council, upon appeal of the Commission's decision) shall conduct a public hearing to consider revoking the permit. The hearing shall be noticed in accordance with the provisions of §§ 402.04 and 402.09, respectively. Recommencement of the use after the 2-year period of inactivity shall require filing a new application.

E. If a use permit is granted subject to conditions, upon failure to comply with conditions, a

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conditional use permit shall be suspended automatically, may invoke enforcement per Article 14, or may be revoked subject to the following:

1. The Director shall notify the applicant of the suspension and the reasons for the suspension and specify a time period for the applicant to comply with the condition or conditions;

2. If the applicant fails to comply within the specified time period, the Commission shall hold a public hearing within 40 days, in accordance with the procedure prescribed in § 402.04. If not satisfied that the condition or conditions in question are being complied with, the Commission may revoke the conditional use permit or take action necessary to ensure compliance with the condition(s);

3. Within 15 days following the date of a decision of the Commission revoking a conditional use permit, written notice of the decision shall be transmitted to the Council;

4. The decision shall become final 30 days following the date on which the conditional use permit was revoked unless an appeal has been filed with the Director within the prescribed 15-day appeal period, in which case the Council shall render a final decision.

402.11 One Year Bar on Refiling. If an application is denied or withdrawn after the Commission hearing or if a conditional use permit is revoked, the Commission has the authority to refuse to accept another application for a conditional use permit for the same or substantially the same use on the site within 1 year from the date the conditional use permit application was filed. If the application is withdrawn or continued at the request of the applicant, the 1 year will begin from the date the Commission considers the application.

402.12 Conditional Use Permit - Validity and Revisions. A conditional use permit granted pursuant to the provisions of this section shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the conditional use permit application. Any proposed revisions or changes to an approved conditional use permit application shall be submitted in the same manner, and subject to the same approval process as the original review.

402.13 Temporary Suspension of Conditions. In the event that the City Manager determines a public emergency, the Community Development Director may suspend one or more conditions of approval on a conditional use permit. (Am. Ord. 2006-02, passed 1-10-2006)

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§ 403 SINGLE-FAMILY RESIDENTIAL REVIEW.

403.01 Purpose. The purpose of this section is to provide guidance on the procedures to be used by a property owner to develop a single-family residence on a lot or parcel zoned for single-family residential use.

403.02 Applicability. These regulations apply to all existing or new single-family residential lots or parcels throughout the city.

403.03 Application Review Procedure.

A. Existing single-family residential lots. All required information shall be submitted to the Department concurrently with the submission of a building permit application for the proposed development. The Director shall determine if the proposed development complies with the provisions of this Code. If it is determined that the proposed development does comply, the building permit for the proposed development shall be issued. If it is determined that the proposed development does not comply, the Director shall advise the applicant in writing of the reasons for noncompliance.

B. New single-family residential lots. All required information relevant to the building of structures on a lot shall be submitted to the Department concurrently with the submission of a building permit application for proposed development. The Director shall determine if the proposed development complies with the provisions of this Code. If it is determined that the proposed development does comply, and is in compliance with the approved subdivision Final Plat, the building permit for the proposed development shall be issued. If it is determined that the proposed development does not comply, the Director shall advise the applicant in writing of the reasons for noncompliance.

403.04 Application Submittal Requirements. A real property owner or the agent of a property owner of a development subject to review shall file an application for consideration for approval by the Director. This section sets forth the submittal requirements required by this section. In many instances, some of the requirements listed below will not apply to a given proposal or piece of property; in those instances, the Director may waive those requirements. The information requested by this section, and as required by other applicable codes and ordinances, may be combined into 1 or more maps or plans, provided that the combined maps or plans adequately depict the required information.

All submittals shall be presented on plan sheets at the size and scale as determined by the Director. If required information has previously been submitted to the city and formed the basis of an approved development project, the same information need not be submitted again (such as, an applicant for a single-family residential building permit is not required to submit information previously submitted in conjunction with the subdivision plat approval). It is suggested that an applicant meet with Department staff prior to formal submittal to discuss submittal requirements. After approval of any development plan, any change to the approved plan shall be resubmitted for a new approval prior to proceeding with the changed portion of the development plan. The application shall contain at a minimum, the following documents to assist in the evaluation of the development's sensitivity to the natural environment:

A. A topographic map with a minimum 2-foot contour, or at such other intervals as approved by the Director;

B. A map (at a minimum scale of 1":10' for that portion of the lot within 30 feet of the proposed building or structure) identifying the following, as applicable:

1. All trees over 2" DBH, indicating canopy size and species, and indicating those trees to be removed; and

2. All natural topographic features such as watercourses, rock outcrops, native vegetation and trees; and

3. A map identifying areas of existing man-made scarring.

C. In areas with a slope greater than 30%, a soil and geology report identifying areas of unstable slopes, but only if actual construction will occur in the 30+ % slope areas.

D. A plan identifying all existing structures and proposed structures.

E. A grading plan indicating all areas to be graded, including driveways and streets.

F. Samples of all proposed exterior paints or stains with LRV (Light Reflectance Value) indicated and samples of roof and exterior materials.

G. Drawings showing provisions for mechanical equipment screening.

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H. Information relating to the application of alternate standards, if proposed, as discussed in § 905.

I. Such other information requested by the Director, such as a slope analysis, relevant to the factors covered by this Code.

403.05 Appeals. The decision of the Director may be appealed to the Board of Adjustment by any person aggrieved by the decision. The appeal shall be filed with the Department no later than 15 days after (i) the date of issuance of the permit or approval or (ii) the date of the Director's decision of denial or noncompliance, as applicable. The appeal shall be accompanied by a fee established by resolution of the City Council, shall clearly set forth the basis for the appeal and shall include the information described for variance applications as specified in § 404.02. A public hearing shall be held after notice in accordance with § 404.04. The appeal shall be heard de novo by the Board of Adjustment.

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§ 404 VARIANCES AND APPEALS.

404.01 Purpose. Variances from the regulations of all articles of this Code with the exception of Articles 7 and 8 shall be granted only when, because of special circumstances applicable to the property including size, shape, topography, location and surroundings, the strict application of applicable regulations deprives the property of privileges enjoyed by other properties of the same zoning district classification. Any variance granted shall be subject to conditions assuring that the adjustment does not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which such property is located. A variance shall not be granted if the special circumstances applicable to the property are imposed by the property owner.

404.02 Variance Application Submittal and Review Procedure. A real property owner or the agent of a property owner of the development for which a variance is desired shall submit a variance application to the Director. A single application may include requests for variances from more than 1 regulation applicable to the same site, or for similar variances on 2 or more adjacent sites with similar characteristics. The application submittal and review involves the following steps.

A. Pre-application consultation. After an initial inquiry in which the Director will explain the variance process, a pre-application consultation with the Director shall be held. The purpose of this meeting is for the Director to review the request and any accompanying drawings or plans and to advise the applicant regarding application submittal requirements.

B. Application submittal requirements. A variance application shall contain the following documents at a minimum:

1. Completed application forms;
2. Legal description of the property;
3. Statement or letter of authorization from the property owner (if different from the applicant);
4. Filing fee;
5. Cover letter or report describing the request and specifically addressing the need for the variance and why granting the request will not result in granting a special privilege to the applicant or property owners;

6. Graphic materials drawn to scale, illustrating all existing and new site improvements and existing site conditions (topography), landscaping, signage and building elevations accurately depicting the appearances of the property and all site improvements upon completion. These will include a Context Plan which includes an existing conditions analysis and a Conceptual Site Plan. This item may be waived by the Director if deemed inapplicable;

7. An ownership map of property owners within 300 feet of the exterior boundaries of the subject property as shown on the last assessment of the property. A list of these property owners shall also be provided on mailing labels and keyed to the map showing the location of the identified properties;

8. Any other materials and data which may be required by the Director to ensure that the purpose of this section is satisfied.

C. Investigation and report. Upon receipt of a variance application, the Director shall complete a preliminary review within 2 working days to ensure that all the required materials have been submitted. Incomplete applications shall be returned to the applicant and not processed until all required materials have been submitted. If all the required materials have been submitted, the application will be considered complete and will be accepted by the Director. A preliminary review shall be performed only after a pre-application conference has been held regarding a specific application. Following acceptance of a complete application, the Director shall conduct a formal review and prepare a report which shall be submitted to the Board of Adjustments and made available to the applicant, media, and general public 7 calendar days prior to the public hearing.

404.03 Fees. The application shall be accompanied by a fee listed in the City Fee Schedule.

404.04 Public Hearing. The Board shall hold a public hearing on an application for a variance. At a public hearing, the Board shall review the application, statements and drawings submitted and shall receive public comments and pertinent evidence concerning the variance, particularly with respect to the findings prescribed in § 404.06. Notice of the date, time and place of a public hearing, including a general explanation of the matter to be considered and including a general description of the area affected, shall be given by the city at least 15 days before the hearing in the following manner:

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A. Publication at least once in a newspaper of general circulation in the city;

B. Posting on the affected property so that the words "Variance" or "Appeal," as applicable, and the date and time of the hearing are visible from a distance of 100 feet. It shall be the responsibility of the applicant to maintain the posting once erected;

C. Notification by first class mail shall be sent to each real property owner, as shown on the last assessment of the property, of the area to be considered for a variance and all property owners as shown on the last assessment of the property within 300 feet of the subject property;

D. As provided in A.R.S. § 9-462.04.A (7), or any successor statute, the failure of any person or entity to receive notice as set forth in the statute or in § 404.04 shall not constitute grounds for any court to invalidate the actions of the city.

404.05 Action of the Board of Adjustment. Within 21 days following the close of the public hearing on a variance application, the Board shall act on the application.

A. The Board may grant a variance as the variance was applied for or in a modified form or the application may be denied.

B. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions the Board may prescribe.

C. Upon failure to act within the prescribed 21-day period, the Board shall lose jurisdiction and an appeal may be taken to the Superior Court, as prescribed by state law.

D. Any proposed revisions or changes to an approved variance application shall be submitted in the same manner and subject to the same approval process as the original review.

404.06 Findings. The Board may grant a variance as it was applied for or in a modified form, to any regulation prescribed by this Code, with the exception of Articles 7 and 8, including regulations concerning fences, walls, hedges, screening or landscaping; site area, width or depth; front, rear or side yards; coverage, height of structures; useable open space; or frontage on a public street. The Board may grant a variance if, on the basis of the application and the evidence submitted, the Board makes the following findings:

A. That due to special circumstances applicable to the subject property, including its size, shape, topography, location or surroundings, the strict application of this Code will deprive the property of privileges enjoyed by other properties of the same classification in the same zoning district;

B. That any variance is subject to conditions that will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the subject property is located;

C. That special circumstances applicable to the property are not imposed by the property owner/applicant.

404.07 Parking, Additional Findings. In the case of a variance application concerning off-street parking facilities, the Board must also find the following in order to grant a variance as applied for, or in a modified form:

A. That neither present nor anticipated future traffic volumes generated by use of the site or the uses of sites in the vicinity reasonably require strict or literal interpretation and enforcement of the specified regulation;

B. That the granting of the variance will not result in the parking or loading of vehicles on public streets in a manner that interferes with the free flow of traffic on the streets;

C. That the granting of the variance will not create a safety hazard or any other condition inconsistent with the objectives of this Code.

404.08 Revocation of Variance.

A. A variance may be approved subject to a schedule of development or set time period for development of specific improvements for which the variance is requested. If, at the expiration of this period or, if a specific time period is not specified, after 1 year following the date upon which the final approval became effective:

1. The subject property has not been improved for the use for which it was approved and a building permit has not been issued and construction commenced and diligently pursued toward completion on the site for which the approval was originally granted; or

2. A Certificate of Occupancy has not been issued for structure(s) which were the subject of the application; or

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3. The site has not actually been occupied for a permitted use if no building permit or Certificate of Occupancy is required;

Then the variance shall be considered subject to revocation, unless a request for an extension of time is made by the applicant to the Director at least 42 days prior to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. A variance subject to revocation may be extended only 1 time for an additional prescribed time period to be determined in a public hearing by the Board. Upon the expiration of the specified time period, if no extension has been granted or no application for the same has been submitted, or a granted time extension has expired, then the Board may consider revoking the variance at a public hearing. Public hearings by the Board shall be noticed in accordance with the provisions of § 404.04.

B. In public hearings before the Board relative to § 404.08A. above, the variance is considered subject to revocation unless the applicant provides substantial evidence that:

1. In spite of the good faith efforts of the applicant, circumstances beyond his control have prevented the timely pursuit of the development and completion of the necessary requirements within the original time frame; or

2. The applicant has completed substantial property improvements; incurred substantial non-recoverable monetary expenditures or commitments; or has completed supporting development-related improvements or retained the services for preparation of supporting data in reliance upon the approval of the request;

3. In either instance, the applicant is, in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the city.

C. Extension of previously approved variance applications may be subject to the following:

1. Modification of previously required conditions of approval as warranted by interim changes in the area and/or to ensure continued compatibility with any improvements within the context area;

2. Site plan revisions as necessary to comply with ordinance or code amendments that may have taken effect since the time of the original approval.

404.09 Appeals Concerning Discretionary Administrative Determinations Requiring Dedications or Exactions for the Use, Improvement or Development of Real Property, the Adoption or Amendment of Zoning Regulations.

A. A property owner may appeal the following city action relating to the owner's property in the manner prescribed by this section.

1. The requirement of a dedication or exaction as a condition of granting approval for the use, improvement or development of real property.

2. The adoption or amendment of a zoning regulation that creates a taking of property in violation of A.R.S. § 9-500.13.

B. The Community Development Department shall notify property owners of their right to appeal the city's action, pursuant to § 404.09A. and shall provide a description of the appeal procedure.

C. The property owner's appeal shall be in writing and filed with the Community Development Department or mailed to the Chairperson of the Board of Adjustment within 30 days after the date the final action is taken and property owner notified by certified mail/return receipt requested. The city shall submit a takings impact report to the Chairperson of the Board of Adjustment. There shall be no fee for such appeal.

D. Not later than 30 days after receipt of an appeal, the Chairperson of the Board of Adjustment shall schedule a time for the appeal to be heard by the Board. The property owner shall be given at least 10-days' notice of the time when the appeal will be heard unless the property owner agrees to a shorter time period.

E. In all such appeal hearings the city has the burden to establish that there is an essential nexus between the dedication or exaction and a legitimate governmental interest, and that the proposed dedication, exaction or zoning regulation is roughly proportional to the impact of the proposed use, improvement or development or in the case of a zoning regulation, that the zoning regulation does not create a taking of property in violation of A.R.S. § 9-500.13. If more than a single parcel is involved, this requirements applies to the entire property.

F. The Board of Adjustment shall decide the appeal within 5 working days after the appeal is heard. If the

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city does not meet the burden set forth above, the Board shall:

1. Modify or delete the requirement for the dedication or exaction appealed under this section;

2. In the case of a zoning regulation appealed under this section, the Board shall transmit a recommendation to the City Council.

G. If the Board of Adjustment modifies or affirms the dedication, exaction or zoning regulation requirement, the property owner aggrieved by that decision may, at any time within 30 days after the date the Board's decision is mailed to the property owner by certified mail/return receipt requested, file a complaint in the appropriate Superior Court for a trial de novo on the facts and the law regarding the issues of the condition or requirement for the dedication, exaction or zoning regulation.

404.10 Appeals.

A. For all articles of this Code, the decision of the Director relative to the interpretation of all articles of this Code, except Article 8 (or the City Engineer, in the case of interpretation of Article 8), may be appealed to the Board of Adjustment by any person aggrieved by the decision. The appeal shall be filed in writing, clearly stating the reasons for the appeal, with the Department no later than 15 days after (i) the date of issuance of the permit or approval or (ii) the date of the decision of the Director or the City Engineer, in the case of interpretation of Article 8, as applicable. The appeal shall be accompanied by a fee established by resolution of the City Council, and shall clearly set forth the basis for the appeal. A public hearing shall be held after notice in accordance with § 404.04. The appeal shall be heard de novo by the Board of Adjustment.

B. Appeals to the Superior Court. A decision of the Board on a variance may be appealed within 30 days to the Superior Court by the applicant or any other aggrieved persons as prescribed in A.R.S. § 9-462.06, or any successor statute.

404.11 Interpretation of Ambiguity, Conflict and of Specified Unlisted Use.

A. Interpretation of similar uses. In order to ensure that this Code will permit all similar uses in each zoning district, the Director on his own initiative or upon written request shall determine whether a use not specifically listed as a permitted or conditional use in any

zoning district shall be deemed a permitted or a conditional use in any 1 or more zoning districts on the basis of its similarity to uses specifically listed. This procedure shall not be substituted for the amendment procedure as a means of adding new uses to the list of permitted or conditional uses.

B. Interpretation of terms. In the event of ambiguity, uncertainty or conflict in the terms of all articles of this Code, with the exception of Article 8, Grading and Drainage, the Director shall determine how the terms will be interpreted. In the event of ambiguity, uncertainty or conflict in the terms of Article 8, the City Engineer shall determine how the terms will be interpreted.

C. Procedure. Application for an interpretation shall be made in writing to the Director or City Engineer, as applicable, and shall include a detailed description of the proposed use and/or other information required by the Director or City Engineer to facilitate a determination.

D. Map errors. The discovery of any clerical errors in the Zoning Map, as applied to a particular lot or parcel, may be corrected upon verification by the Director. Development of a particular lot or parcel shall thereafter be governed by the corrected map.

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§ 405 ADMINISTRATIVE WAIVER.

405.01 Purposes.

A. The Director may grant an administrative waiver to the regulations of all articles of this Code, except Articles 7 and 8, providing that (i) the waiver differs by no more than 25% from the regulations in question, and because special circumstances applicable to the property or development, including size, shape, topography, location and surroundings, mean that the strict application of this Code would deprive the property or development of privileges enjoyed by other properties of the same zoning district; or (ii) where in order to protect natural watercourses, trees, existing healthy mature vegetation, rock outcrops or other natural features on existing lots, reductions to yard (setback) requirements of no more than 25% may be approved by the Director upon written application by the owner.

B. An administrative waiver shall be subject to conditions assuring that the waiver does not constitute a grant of special privileges inconsistent with the limitations on other properties in the vicinity and zoning district in which such property is located. An administrative waiver shall not be granted if special circumstances applicable to the property are imposed by the property owner.

405.02 Application Submittal and Review Procedure. A real property owner or the agent of a property owner of the development subject to an administrative waiver request shall submit an administrative waiver application to the Director. A single application may include requests for waivers from more than 1 regulation applicable to the same site, or for similar waivers on 2 or more adjacent sites with similar characteristics. The application submittal and review involves the following steps.

A. Pre-application consultation. After an initial inquiry in which the Director will explain the process for an administrative waiver, a pre-application consultation with the Director shall be held. The purpose of this meeting is for the Director to review the request and any accompanying drawings or plans and to advise the applicant regarding application submittal requirements.

B. Application submittal requirements. An application for an administrative waiver shall contain the following documents at a minimum:

1. Completed application forms;

2. Legal description of the property;

3. Statement or letter of authorization from the property owner (if different from the applicant);

4. Filing fee, in accordance with the City Fee Schedule;

5. Cover letter or report describing the request and specifically addressing the need for the waiver and why the application will not result in the granting of a special privilege to the property owner/applicant;

6. Graphic materials drawn to scale, illustrating all existing and new site improvements and existing site conditions, landscaping, signage and building elevations accurately depicting the appearances of the property and all site improvements upon completion. This requirement may be modified or waived by the Director if deemed inapplicable;

7. Any other materials and data which may be required by the Director to ensure that the purpose of this section is satisfied.

C. Investigation and report. Upon receipt of an application for an administrative waiver, the Director shall complete a preliminary review within 2 working days to ensure that all the required materials have been submitted. Incomplete applications shall be returned to the applicant and not processed until all required materials have been submitted. If all the required materials have been submitted, the application will be considered complete and will be accepted by the Director. A preliminary review shall be performed only after a pre-application conference has been held regarding a specific application. Following acceptance of a complete application, the Director shall conduct a formal review and prepare a report which shall be filed in the Department and made available to the applicant, media, and general public.

405.03 Action of the Director.

A. The Director may grant an administrative waiver as applied for or as modified, or may deny the application.

B. An administrative waiver may be granted subject to conditions the Director may prescribe in order to mitigate the impact of the waiver on other properties in the adjacent area.

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C. Any proposed revisions or changes to an approved administrative waiver application shall be submitted in the same manner as the original review.

D. Fifteen days prior to a decision on a proposed administrative waiver by the Director, the owners of all properties within 100 feet of the exterior boundaries of the subject property shall be notified by first class mail.

405.04 Findings.

A. The Director may grant an administrative waiver to a regulation prescribed by all articles of this Code, except Articles 7 and 8, including fences, walls, hedges, screening, or landscaping, site area, lot width or depth, front, rear or side yards, coverage, height of structures, distances between structures, useable open space or frontage on a public street, as the waiver was applied for or in modified form, if, on the basis of the application and the evidence submitted, the Director finds the following:

1. That due to special circumstances applicable to the subject property, including its size, shape, topography, location, and surroundings, the strict application of this Code will deprive this property of privileges enjoyed by other properties of the same classification in the same zoning district;

2. That any waiver is subject to conditions that will assure that the modification authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zoning district in which the subject property is located;

3. The waiver differs by no more than 25% from the regulations of this Code.

B. Where a request for a reduction of a yard (setback) requirement of no more than 25% is made to protect natural watercourses, trees, existing healthy mature vegetation, rock outcrops or other natural features on existing lots, the Director's decision shall be based upon the following findings:

1. That strict or literal interpretation and enforcement of the specified regulation (such as setback requirements) would result in practical difficulty or development inconsistent with the objectives of this Code;

2. That there are exceptional or extraordinary conditions relating to the property such as

drainage or flood hazards, size or shape of the site, geology or topography, and existing healthy mature vegetation and trees;

3. That the granting of the yard adjustment will not be detrimental to the public health, safety, or general welfare, or materially injurious to properties or improvements in the vicinity.

405.05 Appeal of Director's Decision. In the event that an affected property owner files a written protest with the Director before the date of the Director's decision on the requested administrative waiver as described in § 405.03D., and the substance of the protest cannot be satisfactorily resolved by the affected parties, the property owner requesting the administrative waiver shall apply for a variance to the Board of Adjustment in accordance with § 404. The applicant or any member of the general public may file a written appeal to the Board, clearly stating the reasons for the appeal, within 15 days of a decision by the Director. The Board shall hold a public hearing regarding the appeal. The hearing shall be noticed as prescribed in § 404.04.

405.06 Revocation of Administrative Waiver.

A. An administrative waiver may be approved subject to a schedule of development or set time period for development of specific improvements for which the administrative waiver is requested. If, at the expiration of this period or, if a specific time period is not specified, after 1 year following the date upon which the final approval became effective:

1. The subject property has not been improved for the use for which it was approved and a building permit has not been issued and construction commenced and diligently pursued toward completion on the site for which the approval was originally granted; or

2. A Certificate of Occupancy has not been issued for structure(s) which were the subject of the application; or

3. The site has not actually been occupied for a permitted use if no building permit or Certificate of Occupancy is required;

Then the administrative waiver shall be considered subject to revocation, unless a request for an extension of time is made by the applicant to the Director at least 60 days prior

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to the date of the expiration of the original approval in accordance with established application submittal scheduling requirements. An administrative waiver subject to revocation may be extended only 1 time for an additional prescribed time period to be determined by the Director. Upon the expiration of the specified time period, if no extension has been granted or no application for the same has been submitted, or a granted time extension has expired, then the Director may consider revoking the waiver.

B. Upon the expiration of the established time period or extension as described in § 405.06A. above, the administrative waiver is considered subject to revocation unless the applicant provides substantial evidence that:

1. In spite of the good faith efforts of the applicant, circumstances beyond his control have prevented the timely pursuit of the development and completion of the necessary requirements within the original time frame; or

2. The applicant has completed substantial property improvements; incurred substantial nonrecoverable monetary expenditures or commitments; or has completed supporting development-related improvements or retained the services for preparation of supporting data in reliance upon the approval of the request;

3. In either instance, the applicant is, in good faith, continuing to diligently pursue implementation of the development to the degree authorized by the city.

C. Extension of previously approved administrative waiver may be subject to the following:

1. Modification of previously required conditions of approval as warranted by interim changes in the area and/or to ensure continued compatibility with any improvements within the context area;

2. Site plan revisions as necessary to comply with ordinance or code amendments that may have taken effect since the time of the original approval.

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§ 406 SPECIAL EXCEPTIONS.

This section shall only apply after an applicant has exhausted all possibilities for the development of a lot or parcel as provided for in this Code. The City Council may also consider applications for special exceptions initiated by the city staff on any lot or parcel within the city limits.

A. Special exceptions from the provisions of this Code may be approved by the City Council if it can be shown that the application of these regulations to any lot or parcel on which development would have been permitted prior to the effective date of this Code, would prevent all economically beneficial use of the lot or parcel. In the case of properties zoned for Commercial, Office Professional, Parking, Planned Development (mixed use), Community Facilities and multi-family and planned residential uses, the applicant shall submit for City Council consideration, sufficient data to show that no economically beneficial use of the lot or parcel is possible. In the case of a single-family residential zoned lot or parcel, economically beneficial use would permit the construction of at least 1 single-family dwelling.

B. Any such lot or parcel may be developed pursuant to the grant of a special exception, provided that such development otherwise conforms to the provisions of this Code as closely as reasonably possible. In the review of requests for special exceptions the City Council shall consider the following:

1. The degree to which the application of this Code to a particular lot or parcel advances a legitimate governmental interest;

2. Whether or not application of this Code would prevent all economically beneficial use of the lot or parcel.

C. In addition to other submittal requirements, as set forth in this Code, applications for special exceptions shall include the following:

1. Documentation of existing development approvals for the lot or parcel which were granted prior to the effective date of this Code;

2. Documentation of development applications for the lot or parcel which were denied after the effective date of this Code;

3. A development plan showing the approved land uses and the areas that will be affected by the proposed special exception on the lot or parcel;

4. A report describing the proposed exceptions from the applicable provisions of this Code and the rationale for the special exception.

D. If a special exception is granted pursuant to this section, the Director shall keep a permanent record on file at the Department that such a special exception was granted, and the special exception shall be referenced on the building permit issued for the proposed development.

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§ 407 TEMPORARY USES.

407.01 Scope. The provisions of this section shall apply to the uses and conditions hereinafter enumerated. Where this section prescribes regulations more restrictive than the zoning district in which a use or conditional use is permitted, the provisions of this section shall apply to temporary uses regardless of the zoning classification.

407.02 Purpose and Classification. Temporary uses are uses which are conducted outside a permanent structure and occur for a specified time period only. Such uses shall not include the frequent occurrence of an activity at short intervals or events repeated on a regular basis, such as every weekend or every other weekend.

Temporary uses are classified as follows.

A. Existing commercial business.

1. Individual businesses conducting an organized outdoor event:

a. Duration. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit;

b. Outside sales shall be located only within the permittee's business frontage.

2. Three or more businesses coordinating an organized outdoor event:

a. Duration. Event shall not exceed 11 consecutive days every 12 months or 12 separate 3-day events every 12 months, each event by separate permit.

B. Organized outdoor community events. Educational, historic, religious and patriotic displays or exhibits, circuses, amusements, outdoor concerts, festivals, revivals, street fairs, outdoor arts and crafts fairs, and other organized outdoor events.

1. Itinerant vendors are allowed only in conjunction with an organized outdoor community event. Organized outdoor community events shall mean any event sponsored by a community based organization.

2. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit.

C. Fundraising activities. Any and all offerings of products and services conducted as fundraising activities for a non-profit organization.

1. Event shall not exceed 11 consecutive days every 12 months or 4 separate 3-day events every 12 months, each event by separate permit.

2. Applicant must provide a letter of verification from an official of the non-profit charitable or community organization and a letter of determination from the Internal Revenue Service.

D. Christmas tree lots. The Christmas tree lots can be displayed no sooner than the fourth Friday of November and must be removed by December 30.

E. Construction support activities. Contractors offices; mobile homes for security purposes if no new construction is proposed (subject to development and review time limits and removal requirements).

F. Film permits.

G. Accessory parking facilities. Duration. In conjunction with and subject to limits for a primary event.

H. Temporary use activities. Temporary use activities which are not specifically classified above shall be assigned to 1 of the above categories by the Director, based on the similarity of the activity.

407.03 Application Requirements.

A. The property owner(s) of record shall have authorized, in writing, the proposed use, dates, times and locations, applicable to the request.

B. Applicants shall submit a written explanation to the Director stating how the activity will meet the following requirements for issuance of a temporary use permit, and stating the following required information where applicable:

1. That the use is temporary and impermanent and the time(s) that the use will last;

2. That the use will not create a nuisance, hazard or interfere with neighbors property and enjoyment thereof;

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3. That the location will not create a traffic hazard or parking problem in the right-of-way and that improved parking is available on-site or at satellite locations by separate permit;

4. That signs will conform to Article 11, Sign Regulations, and will be temporary and impermanent;

5. That the area will be kept clean and free from litter and debris at all times;

6. That landscape and natural vegetation areas shall be protected to the satisfaction of the Director of Community Development and will not be injured or trampled. The liability for replacement of any damage which may occur shall be assumed by the applicant.

C. Prior health authority approval and permits shall be submitted as a part of the application if required by Health Department standards and where food items or food products are handled or sold.

D. Provide Transaction Privilege Tax (TPT) number.

E. Major Events. The following procedures shall apply to all major outdoor community events which will have an anticipated public participation greater than 50 people.

1. Pre-application consultation. At least 1 pre-application consultation is required with the city staff member assigned to accept and review submitted applications. The pre-application consultation must be made a minimum of 45 days in advance of the proposed event. This step includes initial meetings and discussion with the applicant for general orientation purposes. At these meetings the following items should be discussed:

- a. The event proposal;
- b. Existing and required zoning;
- c. Area zoning and land use and the degree to which the proposed event is compatible or could be made compatible;
- d. Identification of preliminary areas of concern such as police and fire protection, health department regulations, insurance risk and traffic control;
- e. Identification of city departments and outside reviewing agencies with whom coordination will be required;

- f. Establishment of data needs;
- g. The application/review/appeal process;
- h. Filing deadlines (minimum 30 days in advance of proposed event);
- i. Provision of application forms and check lists of required items;
- j. Discussion of filing deadlines and late fees.

Following the initial meeting with staff, an additional pre-application meeting with other representatives of city departments and outside reviewing agencies may be necessary for large or complex community events.

2. Application submittal requirements. The applicant shall meet with a designated city staff member a minimum of 30 days in advance of a proposed event to review the submitted application to ensure that all the required information has been submitted. Specifically, the following will be evaluated:

- a. Application form/check list requirements;
- b. Ownership information;
- c. Location of proposed event;
- d. Traffic control provisions, including identification and authorization of use for proposed off-site parking areas and transportation services;
- e. Site plan, signage plan, temporary structures, other significant details;
- f. Collection of application fee and/or posting of required bond;
- g. Identification of contact person or party responsible for the event;

Once it is determined and verified that the application is complete, the proposal will be given an application number and scheduled for administrative review and decision.

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3. Investigation and decision.

a. The day following the application submittal deadline, the designated staff member shall provide application plans and other appropriate materials and reports to other city departments and outside reviewing agencies for written comments on each application. A letter shall be attached briefly summarizing each proposal and its location. City staff will schedule a coordination meeting for each application with these departments and agencies to be held approximately 3 weeks prior to the scheduled event.

b. Approximately 3 weeks prior to the proposed event, a coordination meeting will be conducted. The staff member, applicant and representatives from the other city departments and outside reviewing agencies will attend the meeting and provide written comments on the proposed event and application. The staff member will consolidate all comments into the application file. If any additional information is required, the applicant will be given written notice and a time frame to provide the information prior to the proposed event.

c. No later than 2 weeks prior to the proposed event, the city will either approve the temporary use permit request or notify the applicant in writing of its denial based on the following:

i. Completeness of the application and supporting materials;

ii. Submittal within established deadlines;

iii. Satisfactory resolution of city and outside reviewing agency comments;

iv. Substantiation that information provided is correct;

v. Provision of required bonding, insurance and hold harmless agreements;

vi. Satisfactory completion of a field investigation of the proposed event location to assure compatibility with surrounding land uses and zoning.

F. Film Permits. The following procedures shall apply to a film permit for filming within the Sedona city limits.

1. Application submittal requirements.

The applicant shall submit a completed film permit

application to a designated city staff member a minimum of 5 workdays in advance of any proposed filming event to review the submitted application to ensure that all the required information has been submitted. Filming events may consist of still shots, motion picture filming, commercials or any other type of commercial filming. Specifically, the following will be evaluated:

a. Application form/check list requirements;

b. Ownership information;

c. Location of proposed event;

d. Traffic control provisions including identification and authorization of use of public streets and proposed parking areas and transportation services;

e. Any needed coordination with Sedona Police Department, Sedona Fire District and the Coconino National Forest Service;

f. Site plan, signage plan, temporary structures, catering or food service issues, other significant film plan details;

g. Collection of application fees, insurance documents and/or posting of any required bonds;

h. Identification of contact persons or party responsible for filming event.

Once it has been determined and verified that the application is complete, the application will be given a permit number and scheduled for review and decision.

2. Filming in Residential Districts.

a. Filming in a residential location for more than 4 weeks requires approval of a conditional use permit by the Planning and Zoning Commission in accordance with § 402.

3. Investigation and Decision.

a. Immediately following verification that the films permit application is complete, the designated staff member shall provide application plans and other appropriate materials and reports to other city departments, Sedona Film Office and outside reviewing agencies for written comments and/or approvals.

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b. Film permit applicants need to be advised that although it is the City of Sedona's intent to process film permit applications in an expedited manner, the city has no control over the timeliness of outside reviewing agencies. It is therefore recommended that applications for large or complex filming events requiring traffic control or police/fire related coordination contact city staff well in advance of the proposed filming event in order to address logistical and/or health safety requirements.

c. Once appropriate review of the film permit application is complete, staff will issue the permit, amend or deny the application.

C. An appeal of any decision on a temporary use permit request may be filed by the applicant or any member of the general public within 5 days of the decision. If an appeal is filed within this time period, the application will be considered by an appeal panel consisting of the City Manager, Director of Community Development, and Chief of Police. The appeal panel's decision on the appeal will be final.

(Am. Ord. 2006-08, passed 4-25-2006)

407.04 Performance Standards.

A. The activities of all temporary use categories are subject to an issuance of a temporary use permit.

B. The Director, in his sole discretion based upon the anticipated impacts of the use, may require the temporary use permit for any category A through H activities of § 407.02 to be issued only pursuant to a public hearing before the Commission and approval by that body.

C. In all categories of § 407.02, the applicant shall provide substantial evidence that adequate on-site sanitary facilities are available or will be provided. All activities in category B and other activities as determined by the Director shall require portable sanitation facilities in addition to existing area sanitation facilities.

D. All activities in Category B of § 407.02 and other activities as determined by the Director shall coordinate with the Sedona Police and Fire departments, ambulance services and other jurisdictions for emergency service, traffic and coordination of events as a condition of approval.

407.05 Permits, Bonds and Appeals.

A. The Director shall review the request for a temporary use permit for conformance with performance standards and time limitations and may impose other conditions necessary to protect public health, safety, welfare and conveniences.

B. The Director may require cash bond to defray costs if the permittee fails to comply with required performance standards and conditions.

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§ 408 CITIZEN REVIEW PROCESS.

In addition to the city's notice of hearing described in §§ 400.05, 400.08, 401.05, 402.04, 402.09, every applicant who is proposing a project, which requires a public hearing, shall include a citizen participation plan, which shall be implemented prior to the first public hearing. This process shall be started prior to submitting a rezoning, development review, subdivision application, conditional use permit application or community plan amendment. This process should not occur until after the required pre-application meeting and consultation with the Director.

A. Purpose.

1. To ensure that applicants pursue early and effective citizen participation in conjunction with their applications, giving them opportunity to understand and try to mitigate any real or perceived impacts their application may have on the community.

2. To ensure that the citizens and property owners within the community have an adequate opportunity to learn about applications that may effect them and to work with applicants to resolve concerns at an early stage of the process.

3. Facilitate on-going communication between the applicant, interested citizens and property owners, staff, Planning and Zoning Commissioners and elected officials throughout the application review process.

B. Citizen participation plan. The citizen participation plan is not intended to produce complete consensus on all applications, but to encourage applicants to be good neighbors and to allow for informed decision making.

C. Target area. The level of citizen interest and area of involvement will vary depending on the nature of the application and the location of the site. The target area for early notification will be determined by the applicant after consultation with the Director. At a minimum, the target area shall include the following:

1. Property owners within the public hearing notice area required by other sections of this Code.

2. The head of any homeowners association, or community/neighborhood appointed representative adjoining the project site.

3. Other interested parties who have requested that they be placed on the interested parties' notification list.

4. Those residents, property owners, interested parties that may be affected by the application.

5. The Director may determine that additional notices or area be included.

D. Citizen Participation Plan. At a minimum, the Citizen Participation Plan shall include:

1. How those interested in and potentially affected by an application will be notified that an application has been submitted.

2. How those interested and potentially affected parties will be informed of the substance of the change, amendment, or development proposed by the application.

3. How those affected or otherwise interested will be provided an opportunity to discuss the applicant's proposal with the applicant and express any concerns, issues or problems they may have with the proposal in advance of the public hearing.

4. The applicant's schedule for completion of the citizen participation plan.

5. How the applicant will keep the Department of Community Development informed on the status of their citizen participation efforts.

E. Public notice. These requirements are in addition to public notice provisions required by the Land Development Code.

F. Additional meetings. The Director may require the applicant to hold additional citizen participation meetings based on:

1. The length of time between the last citizen participation meeting and the date of the submittal of the application.

2. The extent of changes that have occurred to the development proposal since the last citizen participation meeting was held.

3. The length of time between last public hearing (such as, a conceptual review hearing) and the date of submittal for further development application.

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G. Citizen participation report. The applicant shall provide a written report to the Director and the Planning and Zoning Commission on the results of their citizen participation effort (prior to the notice of public hearing). The citizen participation report shall include the following information:

1. Details of techniques the applicant used to involve the public, including:

a. Dates and locations of all meetings where citizens were invited to discuss the applicant's proposal;

b. Content, dates mailed, and numbers of mailings, including letters, meeting notices, newsletters and other publications.

c. Where residents, property owners, and interested parties receiving notices, newsletters, or other written materials, are located.

d. The number of people that participated in the process.

2. A summary of concerns, issues, and problems expressed during the process including:

a. The substance of the concerns, issues, and problems.

b. How the applicant has addressed or intends to address concerns, issues and problems expressed during the process.

c. Concerns, issues and problems the applicant is unwilling or unable to address, and why.

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